

Dated: August 1, 1997.

**Ward Penberthy,**

*Acting Director, Chemical Control Division,  
Office of Pollution Prevention and Toxics.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

**49 CFR Part 213**

[FRA Docket No. RST-90-1, Notice No. 6]

RIN 2130-AA75

**Track Safety Standards**

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking; date and location of public hearing.

**SUMMARY:** By notice of proposed rulemaking (NPRM) published on July 3, 1997 (62 FR 36138), FRA proposed a rule to revise the Federal track safety standards. In that notice, FRA announced that it would soon schedule a public hearing to allow interested parties the opportunity to comment on issues addressed in the NPRM.

**DATES:** *Public Hearings:* The date of the public hearing is Thursday, September 4, 1997 at 9:00 a.m. in Washington, D.C. Any person wishing to participate in the public hearing should notify the Docket Clerk by telephone (202-632-3198) or by mail at the address provided below at least five working days prior to the date of the hearing and submit three copies of the oral statement that he or she intends to make at the hearing. The notification should identify who the person represents and the particular subject(s) the person plans to address. The notification should also provide the Docket Clerk with the participant's mailing address. FRA reserves the right to limit participation in the hearings of persons who fail to provide such notification.

**ADDRESSES:** (1) *Docket Clerk:* Written notification should identify the docket number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, RCC-10, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590.

(2) *Public Hearings:* The hearing will be held in Room 2230 of U.S. Department of Transportation headquarters, 400 Seventh Street, S.W., Washington, D.C. 20590.

**FOR FURTHER INFORMATION CONTACT:**

Allison H. MacDowell, Office of Safety Assurance and Compliance, Federal Railroad Administration, 400 Seventh Street, S.W., Mail Stop 25, Washington, D.C. 20590 (telephone number: 202-632-3344), or Nancy Lummen Lewis, Esq., Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590 (telephone: 202-632-3174).

**S. Mark Lindsey,**  
*Chief Counsel.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

**49 CFR Part 234**

[FRA Docket No. RSGC-6; Notice No. 4]

RIN 2130-AA92

**Selection and Installation of Grade Crossing Warning Systems; Termination of Rulemaking**

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Termination of rulemaking.

**SUMMARY:** This notice terminates rulemaking action in FRA Docket No. FSGC-6. In its Notice of Proposed Rulemaking (NPRM), FRA proposed to prohibit railroads from unilaterally selecting and installing highway-rail grade crossing warning systems at public highway-rail crossings. FRA also proposed to require that railroads furnish state highway authorities with information necessary for state grade crossing project planning and prioritization purposes. Termination of this rulemaking is based on public comments and FRA's determination that railroad safety will not be best served by issuance of such a regulation at this time.

**FOR FURTHER INFORMATION CONTACT:**

Bruce F. George, Director, Highway-Rail Crossing and Trespasser Programs Division, Office of Safety, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202-632-3305), or Mark Tessler, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202-632-3171).

**SUPPLEMENTARY INFORMATION:** On March 2, 1995, FRA published in the **Federal Register** (60 FR 11649) an NPRM which was meant to clarify the respective responsibilities of railroads and state and local governments regarding the

selection and installation of highway-rail grade crossing warning systems. Public hearings were held on the proposal on June 6 and 7, 1995. The public comment period closed on June 14, 1995. However, FRA continued to receive comments and to date has received in excess of 3,000 comments in this rulemaking. All comments have been considered by FRA, including those received after June 14, 1995, in accord with FRA's policy to consider late filed comments to the extent possible. A wide range of views were expressed in the public hearings and in written comments submitted to the public docket. A high proportion of the comments were form letters and preprinted postcards expressing opposition to the proposal.

Subsequent to issuance of the NPRM, a school bus stopped at a highway-rail grade crossing in Fox River Grove, Illinois, was struck by a commuter train. Seven students died. Following the accident the Secretary of Transportation established a Grade Crossing Safety Task Force (Task Force) to build upon the Department's 1994 Rail-Highway Crossing Safety Action Plan. The Task Force reported its findings to the Secretary on March 1, 1996. The Executive Summary of the report stated in part:

[T]he report recommends 24 specific follow-on actions to address both physical and procedural deficiencies. In practice, the responsibility for public grade crossings resides with State and local governments, railroads, and transit agencies. Recognizing the constrained budgets that are available to the private sector and State and local authorities, the report emphasizes rethinking existing practices—not requiring new ones from a regulatory approach. This reliance on existing opportunities is emphasized by recommendations that encourage grade crossing safety through coordinated inspections, law enforcement, and driver education.

As the Task Force Report states, "[t]his \* \* \* report should not be viewed as a surrogate for the Action Plan, but as a supplement which focuses on the planning, construction, maintenance, operation, and inspection activities involving rail crossings. The Task Force directed its attention to those grade crossing issues for which there were no well-defined standards, practices, or information. It was in these five problem areas outside the scope of the Action Plan, that the Task Force felt additional improvements in grade crossing safety could be made."

FRA is continuing its implementation of the Action Plan's recommendations while at the same time it works to ensure that the recommendations of the Safety Task Force are carried out.